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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,702	01/17/2004	Steve Lewison	SCL002	8457

7590 07/18/2006

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EXAMINER	
GILBERT, WILLIAM V	

ART UNIT	PAPER NUMBER
3635	

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/759,702	LEWISON, STEVE	
	Examiner	Art Unit	
	William V. Gilbert	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 January 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *26-31* is/are allowed.

6)☒ Claim(s) *1,2,4,5,8-15,17,22 and 23* is/are rejected.

7)☐ Claim(s) *3,6,7,16,18,19,21,24,25* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/17/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: Figure 4, element 405; Figure 5, element 521; Figure 9, element 994 are not referenced in the disclosure as required.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 8, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisher (U.S. Patent No. 6,065,267).

Regarding Claim 1, Fisher discloses a truss span (10) comprising at least three chords (12, 14, 16) in a generally parallel orientation (see Figure 1, generally) a web (30) connecting two adjacent parallel chords corresponding to at least two of the three faces (see Figure 1, generally), a first

structural end bracket (18) and a second structural end bracket (24), the first end bracket connecting a first end of the two adjacent parallel chords and the second end bracket connecting a second end of the two adjacent parallel chords (see Figure 1, generally) to provide an open face between the structural end brackets (see Figure 1, generally), and the truss span has a tapered profile (see Figure 1, generally, where the taper occurs beginning at the face formed by the two chords 14 and 16 and the taper concluding at chord 12). The phrase "wherein the truss span...is capable of nesting within the open face area between the first and second structural end brackets" is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In Fisher, the truss is clearly capable of a nesting configuration.

Regarding Claim 2, Fisher discloses that each of the three chords (12, 14, 16) includes a cylindrical chord (see Figure 1, generally).

Regarding Claim 8, Fisher discloses a truss (10) where the three parallel chords (12, 14, 16) are of approximately equal

length (see Figure 1, generally) each having a first and second end, the web (30) includes a first web connecting the first and second chord (14 and 12, respectively) and a second web (30) connecting the second and third chords (12 and 16, respectively) and a first end bracket (18) connecting the first end of the first chord (14) to the first end of the third chord (16) and a second end bracket (24) connecting the second end of the first chord (14) to the second end of the third chord (16).

Regarding Claim 15, the phrase "the first truss span is adapted to be connected to the second truss span by joint systems for connecting chords from one truss span to the chords from another truss span," is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The truss in Fisher has the capability to be connected to another truss by connecting the chords in one truss to the chords in another.

Regarding Claim 17, Fisher discloses removable bracing (20, 22) adapted to support the two adjacent parallel chords connected by two structural end brackets (18, 24).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher in view of Holtz (U.S. Patent No. 4,549,381).

Regarding Claim 4, Fisher discloses the claimed invention except the web includes at least one elongated member providing multiple connection points between the two adjacent parallel chords. Holtz discloses a truss (1) where the web (2, 4)

between two adjacent parallel chords (5, 10) includes at least one elongated member (6) providing multiple connection points (12) between the two adjacent parallel chords. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the elongated web member in Holtz as a web in Fisher. One would have been motivated to make such a modification because the web in Holtz is functionally equivalent to the web in Fisher and would perform equally as well.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher in view of O'Neill (U.S. Patent No. 5,964,068).

Regarding Claim 5, Fisher discloses the claimed invention except that the web includes a plurality of web plates connecting two adjacent parallel chords. O'Neill discloses a truss (10) where the web has web plates (18) connecting two adjacent parallel chords (16). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the web plates in O'Neill for webbing in Fisher. One would have been motivated to make such a modification because web plates are functionally equivalent to the web as in Fisher and would perform equally as well.

Claims 9, 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher in view of Swan el al. (U.S. Patent No. 5,205,101).

Regarding Claim 9, Fisher discloses the claimed invention including that the first end bracket (18) and second end bracket (24) have generally concave shaped inside ends (See Figure 1, generally). Fisher does note disclose the first and second end brackets being approximately flush with the respective ends of the chords. Swan discloses a truss (11) where the first and second end brackets (13) are flush with the respective ends of the chords. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the end brackets in Swan that are flush with the ends of the chords with the end brackets in Fisher. One would have been motivated to make such a modification because flush end brackets would aid in making the joint connection from one truss to another.

Regarding Claims 11-14, Fisher discloses the claimed invention excepted that for a hub where the at least two truss spans radially extend from the hub (per Claim 11), where a first one of the truss spans extends in a generally vertical direction from the hub and a second truss extends in a general horizontal direction from the hub (per Claim 12), where a third truss is

connected in a generally horizontal direction from the hub (per Claim 13) and where a first truss span is connected in-line to a second truss span (per Claim 14). Swan discloses a truss system (See Figure 1, generally), with a hub (12) where at least two truss spans radially extend from the hub (per Claim 11, see Elements A and B from attached Figure 1 of Swan, below), where a first one of the truss spans extends in a generally vertical direction from the hub and a second truss extends in a general horizontal direction from the hub (per Claim 12, see Elements C and B respectively from attached Figure 1 of Swan, below), where a third truss is connected in a generally horizontal direction from the hub (per Claim 13, see Element B from attached Figure 1 of Swan, below) and where a first truss span is connected in-line to a second truss span (per Claim 14, see Elements A and D from attached Figure 1 of Swan, below). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to form the truss system in Swan from the truss as disclosed in Fisher. One would have been motivated to make such a modification because the disclosure in Fisher notes that it is well known in the art to use truss systems for "exhibition, display and concert staging" (see Column 1, lines 26-36), and the disclosure in Swan discloses that its truss system is typical for the entertainment industry (see Column 1,

lines 10-12). The Truss in Fisher has the capability of being used as disclosed in Swan, and the various configurations of the truss members are well known in truss assembly.

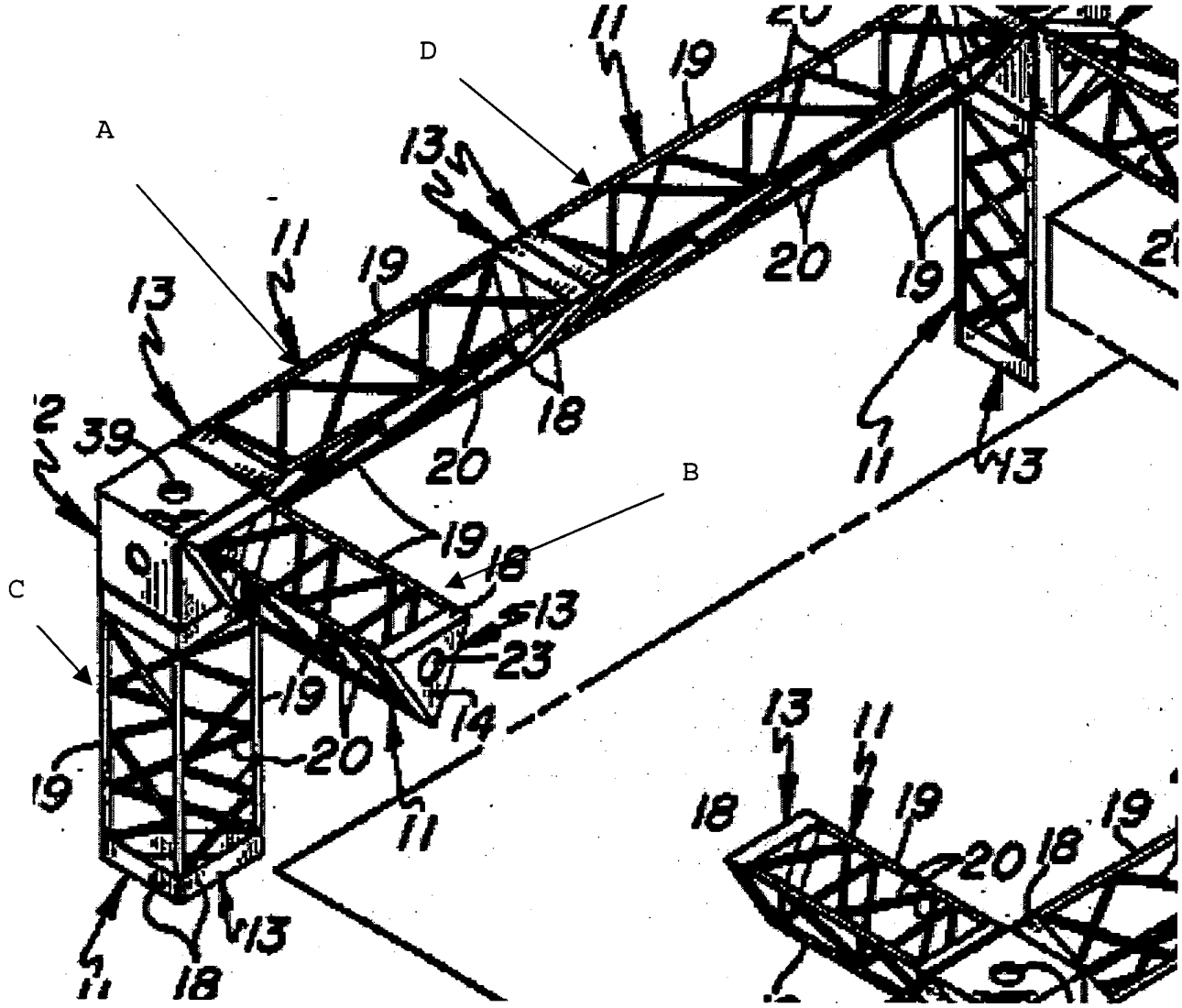


Figure 1 from Swan et al.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher.

Regarding Claim 10, Fisher discloses a system comprising a plurality of truss spans (Column 1, lines 26-36), each truss span including at least three parallel chords (12, 14, 16) in a generally parallel orientation with respect to each other (Figure 1, generally) a web (30) connecting two adjacent parallel chords for at least two of the three faces (Figure 1, generally) and at least one of the three faces having two adjacent parallel chords connected by two structural end brackets (18, 24), and the spans' having a tapered profile (see Figure 1, generally, where the taper occurs beginning at the face formed by the two chords 14 and 16 and the taper concluding at chord 12). Fisher does not disclose a first truss span nesting inside of a second truss span when the first truss span is inserted between the two structural end brackets of the second truss span. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to stack a first truss span inside a second truss span as in Fisher because the title of Fisher is "V-Shaped Stackable Truss…." See also Column 1, lines 6-9. It would therefore be obvious to nest a first truss span in Fisher with a second truss span.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher in view of DeMeyer (U.S. Patent No. 5,623,786).

Regarding Claim 20, Fisher discloses the claimed invention except for the plurality of connection members, each connection member including a plurality of members, and each connection member including a tapered end. DeMeyer discloses a truss (Figures 15 and 16) further comprising a connection member (Figures 12, 14) each connection member including a plurality of members (see elements "A" from attached Figure 14 from DeMeyer below), and the connection member (Figure 14, generally) having a tapered end (see element "B" from attached Figure 14 from DeMeyer below). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the connection member in DeMeyer with the truss in Fisher. One would have been motivated to make such a modification because the connection member in DeMeyer permits connections to other truss members at angles less than 90 degrees and therefore offers greater versatility. Additionally, while Claim 20 claims a plurality of connection members, it would be obvious that a plurality of connection members would be required to connect each truss to a hub. The phrase "adapted to connect to the hub such that a number of connection members are

able to be attached to a single hub to radially extend from the hub in a single plane," is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Here, it is clear the connection member is capable of being attached to a single hub.

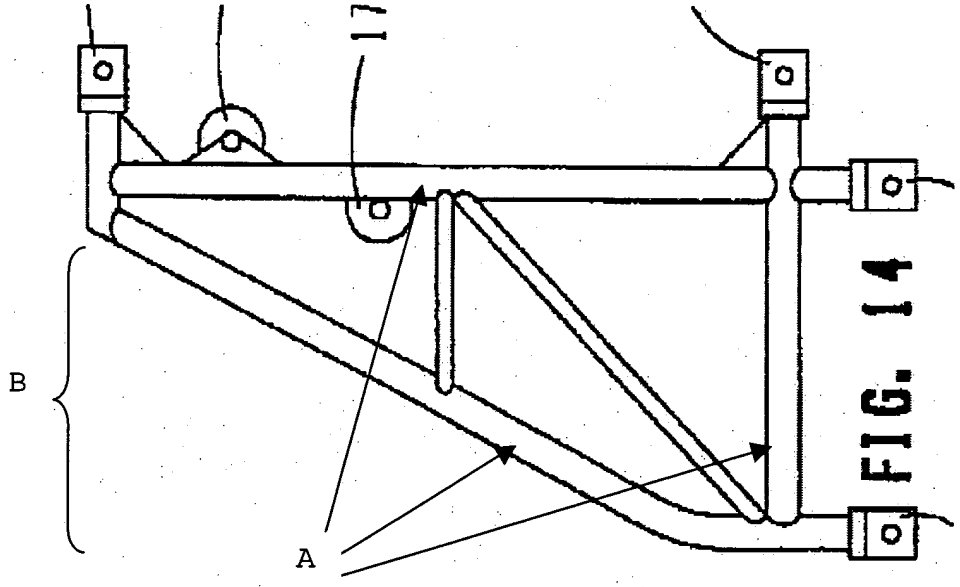


Figure 14 from DeMeyer

Claims 22, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher as applied to claim 10 above, and further in view of Rossman (U.S. Patent No. 4,484,430).

Regarding Claim 22, Fisher discloses the claimed invention except where the hub includes a cylindrical wall and a set of pre-formed holes (for connection). Rossman discloses a system (see Figure 1, generally), where a hub (11) has a cylindrical wall (see 11, generally), and holes (31) for connection. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the hub in Rossman with the truss in Fisher. One would have been motivated to make such a modification because it is well known in the art to use a hub as a central connecting point for more than two structural members.

Regarding Claim 23, Fisher discloses the claimed invention except the holes be equally distributed around the circumference of the hub each connection member being separated from another by approximately 90 degrees. Rossman discloses the hub having equally distributed holes (31, see Figure 1, generally) and the separation of one connection member from another may be 90 degrees (see Column 2, lines 31-40). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to make the hub with holes approximately 90 degrees apart because it is well known in the art to make connections of truss members at 90 degrees.

Allowable Subject Matter

4. **Claims 3, 6, 7, 16 and 18, 19, 21, 24, 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

Claims 26-31 are allowed.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571.272.6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WVG 06/23/06

Carl D. Friedman
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Group 3600